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PTO/SB/64 (01-08)

Approved for use through 02/29/2008. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT  
ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)**Docket Number (Optional)  
04132.0096.PCUS00

First named inventor: Franciscus Theodorus Cornelis GEERTS

**RECEIVED**

Application No.: 09/767,496

Art Unit: 2632

**MAR 07 2008**

Filed: January 24, 2001

Examiner: Anh V. La

**OFFICE OF PETITIONS**

Title: A VEHICLE FOR DETERMINING THE CLIMATE

03/05/2008 CNGUYEN2 00000006 083038 09767496

Attention: Office of Petitions  
**Mail Stop Petition**  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
FAX (571) 273-8300

02 FC:1453 1540.00 DA

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

**APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION**

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

**1. Petition fee**

Small entity-fee \$ \_\_\_\_\_ (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.

Other than small entity – fee \$ 1,540.00 (37 CFR 1.17(m))

**2. Reply and/or fee**

- A. The reply and/or fee to the above-noted Office action in the form of Request for Continued Examination (identify type of reply):

has been filed previously on \_\_\_\_\_.  
 is enclosed herewith.

- B. The issue fee and publication fee (if applicable) of \$ \_\_\_\_\_.  
 has been paid previously on \_\_\_\_\_.  
 is enclosed herewith.

[Page 1 of 2]

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

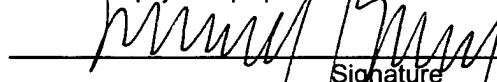
## 3. Terminal disclaimer with disclaimer fee

- Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ \_\_\_\_\_ for a small entity or \$ \_\_\_\_\_ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

## 4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).], as stated in the attached Declaration in Support of Petition to Revive.

**WARNING:**

Petitioner/applicant is cautioned to avoid submitting personal information in documents filed in a patent application that may contribute to identity theft. Personal information such as social security numbers, bank account numbers, or credit card numbers (other than a check or credit card authorization form PTO-2038 submitted for payment purposes) is never required by the USPTO to support a petition or an application. If this type of personal information is included in documents submitted to the USPTO, petitioners/applicants should consider redacting such personal information from the documents before submitting them to the USPTO. Petitioner/applicant is advised that the record of a patent application is available to the public after publication of the application (unless a non-publication request in compliance with 37 CFR 1.213(a) is made in the application) or issuance of a patent. Furthermore, the record from an abandoned application may also be available to the public if the application is referenced in a published application or an issued patent (see 37 CFR 1.14). Checks and credit card authorization forms PTO-2038 submitted for payment purposes are not retained in the application file and therefore are not publicly available.




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Signature

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Michael J. Bell

Typed or printed name

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HOWREY LLP, c/o DOCKETING DEPARTMENT, 2941 FAIRVIEW PK DR

Address

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BOX 7, FALLS CHURCH, VA 22042

Address

- Enclosures:  Fee Payment  
 Reply  
 Terminal Disclaimer Form  
 Additional sheets containing statements establishing unintentional delay  
 Other: Transmittal, Fee Transmittal, Declaration in Support of Petition to Revive (2), Petition for Extension of Time

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March 4, 2008

Date

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39,604

Registration Number, if applicable

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703.663.3600

Telephone Number

**CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]**

I hereby certify that this correspondence is being:

- Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.
- Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office at (571) 273-8300.

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Signature

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Typed or printed name of person signing certificate



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Franciscus, Theodorus, Cornelis GEERTS

Appl. No. 09/767,496

Filed: January 24, 2001

For: **A VEHICLE FOR DETERMINING THE CLIMATE**

Art Unit: 2632

Examiner: LA, ANH V

Atty. Docket: 8553/201

**DECLARATION IN SUPPORT OF PETITION TO REVIVE** RECEIVED

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

MAR 07 2008

**OFFICE OF PETITIONS**

Sir:

- 1) I, Frans J.A. de Groen, am the representative of the Assignee of the above-referenced application and have been responsible for the prosecution of the application since August 2002;
- 2) Our previous U.S. patent counsel, Mr. Penrose Albright, died late last year;
- 3) We were informed of Mr. Albright's death by letter from his son. This letter further informed us that the entire law firm would, because of Mr. Albright's death, be dissolved immediately;
- 4) Review of the patent applications being handled by Mr. Albright reveals that Mr. Albright did not respond to an outstanding Office Action issued in the above-referenced application and that this application went abandoned; and
- 5) the entire delay in filing the required reply to the Office Action from the due date for the required reply until the filing of the grantable petition under 37 CFR 1.137(b) filed herewith was unintentional.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "F.J.A. de Groen".

F.J.A. de Groen  
Dutch Patent Attorney

Date: March 3, 2008

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Uitgedielde Aanvragen (Alles) In bewerking!Dossiers Octrooi!4100 serie!4190  
Klimaatkar!4190 PCT US!D4190US 20080229 Declaration in support of Petition  
to revive.DOC



UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Franciscus Theodorus Cornelis GEERTS

Appl. No. 09/767,496

Filed: January 24, 2001

For: **A VEHICLE FOR DETERMINING THE CLIMATE**

Confirmation No. 2695

Art Unit: 2632

Examiner: Anh V. La

Atty. Docket: 04132.0096.PCUS00

**DECLARATION IN SUPPORT OF PETITION TO REVIVE**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

I, MICHAEL J. BELL, on information and belief state as follows:

1. I am a partner in the Washington, D.C. office of Intellectual Property practice group at the law firm of Howrey LLP.
2. Mr. Penrose Albright (now deceased) previously handled and is counsel of record for the above-referenced application for assignee Lely Research Holding AG.
3. Assignee was informed of Mr. Albright's death by letter from his son in November, 2007. This letter indicated that the entire law firm would be dissolved immediately due to Mr. Albright's death.
4. After review of the matters being handled by Mr. Albright, an attorney for the assignee contacted a partner in Howrey's Amsterdam office to discuss transferring responsibility for the above-referenced application to the Washington office of Howrey LLP.
5. I was contacted on January 30, 2008 by my partner to discuss transferring the responsibility of the application and physically obtaining the files from Mr. Albright's son as soon as possible.
6. After several attempts, I made contact with Mr. Albright's son by telephone on February 4, 2008. We arranged for Howrey personnel to pick up the physical files from Mr. Albright's former office as soon as possible.
7. On February 7, 2008, personnel from Howrey's docketing department met with Mr. Albright's son at his former office and began the transfer of the physical files, including the file related to the above-referenced application.
8. I received the above-referenced application on February 8, 2008.

9. The file revealed that a Notice of Appeal to an outstanding Office Action was filed on April 23, 2003.
  10. The file further indicated that a Notice of Abandonment was issued on July 13, 2004.
  11. There is no record of the Notice of Abandonment being forwarded to the assignee.
  12. There is, however, correspondence from the assignee dated June 5, 2003 requesting prior counsel to file a Request for Continued Examination instead of an Appeal Brief.
  13. No Request for Continued Examination was filed and there is no indication in the file that prior counsel informed the assignee that he would not file a Request for Continued Examination.
  14. In fact, the file contains additional correspondence dated November 24, 2005 from the assignee to prior counsel requesting the status of the application seemingly assuming the application to be in good standing.
  15. On December 5, 2005, prior counsel informed assignee that he would be filing a Petition to Revive the application and would keep the assignee advised.
  16. Having not heard any additional comments from prior counsel, and again assuming that prior counsel had timely filed the promised Petition, assignee inquired about the status of the application on March 8, 2007.
  17. The assignee was awaiting a full update of the status when it was informed of Mr. Albright's death.
  18. When the file was transferred to and received by me, I informed the assignee that no Petition to Revive had been filed. The assignee informed me that it was not their intention to allow the application to go abandoned and acting on the promises made by prior counsel (with whom they had over a thirty year relationship), they assumed that a Petition to Revive had been filed. No explanation for the status of the application was in the file in response to their inquiry of 2007.

19. The assignee requested that I file a Petition to Revive as soon as practical.
  20. All statements made herein of my own knowledge are true and all statements made on information and belief are believed to be true.

Respectfully submitted,

Michael J. Bell

Date: 3/4/08